

111TH CONGRESS  
1ST SESSION

# S. 1346

To penalize crimes against humanity, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 24, 2009

Mr. DURBIN (for himself, Mr. LEAHY, and Mr. FEINGOLD) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To penalize crimes against humanity, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Crimes Against Hu-  
5       manity Act of 2009”.

6       **SEC. 2. ACCOUNTABILITY FOR CRIMES AGAINST HUMAN-**  
7       **ITY.**

8       (a) IN GENERAL.—Part 1 of title 18, United States  
9       Code, is amended by inserting after chapter 25 the fol-  
10      lowing:

**“CHAPTER 25A—CRIMES AGAINST  
HUMANITY**

“Sec.

“519. Crimes against humanity.

**§ 519. Crimes against humanity**

“(a) OFFENSE.—It shall be unlawful for any person to commit or engage in, as part of a widespread and systematic attack directed against any civilian population, and with knowledge of the attack—

“(1) conduct that, if it occurred in the United States, would violate—

“(A) section 1111 of this title (relating to murder);

“(B) section 1581(a) of this title (relating to peonage);

“(C) section 1583(a)(1) of this title (relating to kidnapping or carrying away individuals for involuntary servitude or slavery);

“(D) section 1584(a) of this title (relating to sale into involuntary servitude);

“(E) section 1589(a) of this title (relating to forced labor); or

“(F) section 1590(a) of this title (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor);

1           “(2) conduct that, if it occurred in the special  
2           maritime and territorial jurisdiction of the United  
3           States, would violate—

4                   “(A) section 1591(a) of this title (relating  
5                   to sex trafficking of children or by force, fraud,  
6                   or coercion);

7                   “(B) section 2241(a) of this title (relating  
8                   to aggravated sexual abuse by force or threat);  
9                   or

10                  “(C) section 2242 of this title (relating to  
11                  sexual abuse);

12           “(3) conduct that, if it occurred in the special  
13           maritime and territorial jurisdiction of the United  
14           States, and without regard to whether the offender  
15           is the parent of the victim, would violate section  
16           1201(a) of this title (relating to kidnapping);

17           “(4) conduct that, if it occurred in the United  
18           States, would violate section 1203(a) of this title (re-  
19           lating to hostage taking), notwithstanding any ex-  
20           ception under subsection (b) of section 1203;

21           “(5) conduct that would violate section 2340A  
22           of this title (relating to torture);

23           “(6) extermination;

24           “(7) national, ethnic, racial, or religious cleans-  
25           ing;

1           “(8) arbitrary detention; or

2           “(9) imposed measures intended to prevent  
3       births.

4           “(b) PENALTY.—Any person who violates subsection  
5       (a), or attempts or conspires to violate subsection (a)—

6           “(1) shall be fined under this title, imprisoned  
7       not more than 20 years, or both; and

8           “(2) if the death of any person results from the  
9       violation of subsection (a), shall be fined under this  
10      title and imprisoned for any term of years or for life.

11          “(c) JURISDICTION.—There is jurisdiction over a vio-  
12      lation of subsection (a), and any attempt or conspiracy  
13      to commit a violation of subsection (a), if—

14          “(1) the alleged offender is a national of the  
15      United States or an alien lawfully admitted for per-  
16      manent residence;

17          “(2) the alleged offender is a stateless person  
18      whose habitual residence is in the United States;

19          “(3) the alleged offender is present in the  
20      United States, regardless of the nationality of the al-  
21      leged offender; or

22          “(4) the offense is committed in whole or in  
23      part within the United States.

24          “(d) NONAPPLICABILITY OF CERTAIN LIMITA-  
25      TIONS.—Notwithstanding section 3282 of this title, in the

1 case of an offense under this section, an indictment may  
2 be found, or information instituted, at any time without  
3 limitation.

4 “(e) DEFINITIONS.—In this section:

5 “(1) ARBITRARY DETENTION.—The term ‘arbi-  
6 trary detention’ means imprisonment or other severe  
7 deprivation of physical liberty except on such  
8 grounds and in accordance with such procedure as  
9 are established by the law of the jurisdiction where  
10 such imprisonment or other severe deprivation of  
11 physical liberty took place.

12 “(2) ARMED GROUP.—The term ‘armed group’  
13 means any army, militia, or other military organiza-  
14 tion, whether or not it is State-sponsored, excluding  
15 any group assembled solely for nonviolent political  
16 association.

17 “(3) ATTACK DIRECTED AGAINST ANY CIVILIAN  
18 POPULATION.—The term ‘attack directed against  
19 any civilian population’ means a course of conduct  
20 in which a civilian population is a primary rather  
21 than an incidental target.

22 “(4) ETHNIC GROUP; NATIONAL GROUP; RACIAL  
23 GROUP; RELIGIOUS GROUP.—The terms ‘ethnic  
24 group’, ‘national group’, ‘racial group’, and ‘religious

1 group' have the meanings given those terms in sec-  
 2 tion 1093 of this title.

3 “(5) EXTERMINATION.—The term ‘extermi-  
 4 nation’ means subjecting a civilian population to  
 5 conditions of life that are intended to cause the  
 6 physical destruction of the group in whole or in part.

7 “(6) LAWFULLY ADMITTED FOR PERMANENT  
 8 RESIDENCE; NATIONAL OF THE UNITED STATES.—  
 9 The terms ‘lawfully admitted for permanent resi-  
 10 dence’ and ‘national of the United States’ have the  
 11 meanings give those terms in section 101(a) of the  
 12 Immigration and Nationality Act (8 U.S.C.  
 13 1101(a)).

14 “(7) NATIONAL, ETHNIC, RACIAL, OR RELI-  
 15 GIOUS CLEANSING.—The term ‘national, ethnic, ra-  
 16 cial, or religious cleansing’ means the intentional  
 17 and forced displacement from 1 country to another  
 18 or within a country of any national group, ethnic  
 19 group, racial group, or religious group in whole or  
 20 in part, by expulsion or other coercive acts from the  
 21 area in which they are lawfully present, except when  
 22 the displacement is in accordance with applicable  
 23 laws of armed conflict that permit involuntary and  
 24 temporary displacement of a population to ensure its

1 security or when imperative military reasons so de-  
 2 mand.

3 “(8) SYSTEMATIC.—The term ‘systematic’  
 4 means pursuant to or in furtherance of the policy of  
 5 a State or armed group.

6 “(9) WIDESPREAD.—The term ‘widespread’  
 7 means involving multiple victims.”.

8 (b) CLERICAL AMENDMENT.—The table of chapters  
 9 for part 1 of title 18, United States Code, is amended by  
 10 inserting after the item relating to chapter 25 the fol-  
 11 lowing:

“25A. Crimes against humanity ..... 519”.

